

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LOU J. OATES, III

Plaintiff

v.

TROPICAL FUN ZONE, LLC

Defendant.

: CIVIL ACTION
:
: NO. 2:18-972
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NOTICE OF REMOVAL OF DEFENDANT, TROPICAL FUN ZONE, LLC

Defendant, Tropical Fun Zone, LLC (“Defendant”), by and through their counsel, Post & Schell, P.C., hereby submits this Notice of Removal and aver as follows:

1. This matter arises from an alleged premises liability incident that occurred on June 16, 2016. See Plaintiff’s Complaint attached hereto as **Exhibit A**.
2. Plaintiff initiated this case via Praecipe for Writ of Summons on June 7, 2018. See Docket attached hereto as **Exhibit B**. Defendant was served on, or about, June 13, 2018. Id.
3. Plaintiff filed his Complaint on July 12, 2018. Id.
4. A copy of the Complaint was received by Defendant’s counsel on July 13, 2018.
5. This Court’s jurisdiction is based upon diversity of citizenship under 28 U.S.C. § 1332.
6. With regard to diversity of citizenship, Plaintiff is a citizen of Ohio. See Exhibit A, ¶ 1.
7. “[A] corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business...” 28 U.S.C. § 1332(c)(1).

8. Defendant is a business entity registered in Pennsylvania with a principal place of business located in Pennsylvania. Id., ¶ 2.

9. The parties are in complete diversity.

10. Plaintiff alleges that as a result of the alleged incident he sustained the following injuries “which may be permanent”

- a. Right ACL tear;
- b. Right lateral meniscus tear;
- c. Weakness and instability in the right leg;
- d. Bruising;
- e. Surgical scarring;
- f. Temporary and permanent disfigurement;
- g. Increased risk of future surgeries;
- h. Other sequelae in the medical record.

Id., ¶ 25.

11. Plaintiff is also seeking damages for past medical expenses, future medical expenses, wage loss, and loss of earning capacity. Id., ¶ 26.

12. Plaintiff’s Complaint alleges damages against the Defendants “in a sum in excess of the arbitration jurisdiction...” Id.

13. “The general federal rule is to decide the amount in controversy from the complaint itself... The amount in controversy is not measured by the low end of an open ended claim, but rather by a reasonable reading of the value of the rights being litigated.” Angus v. Shiley, Inc., 989 F.2d 142, 146 (3d Cir. 1993) (Plaintiff sought damages “‘in excess’ of \$20,000.”)

14. In light of the fact that Plaintiff asserts substantial personal injuries and economic loss any “reasonable reading of the rights being litigated” in this matter leads to the conclusion that the amount in controversy exceeds the federal jurisdictional threshold.

15. Therefore, the instant action satisfies the elements necessary to establish diversity of citizenship jurisdiction pursuant to 28 U.S.C. 1332 insofar as all of the parties are diverse and the amount in controversy is in excess of \$75,000.00.

16. Defendants Notice of Removal has been filed within thirty (30) days of receipt of Plaintiff’s Complaint, and therefore is timely, under 28 U.S.C. § 1446. See also Sikirica v. Nationwide Ins. Co., 416 F.3d 214 (3rd Cir. 2005).

17. Concurrently, Defendants filed a Notice of Removal with the Prothonotary of the Court of Common Pleas of Philadelphia County pursuant to 28 U.S.C. § 1446(d). See Notice attached hereto as **Exhibit C**.

WHEREFORE this action, which is presently docketed in the Beaver County Court of Common Pleas No. 10731-2018 has been removed to this Court and this action should be placed on the docket for this Court for further proceedings as though it was originally initiated here.

POST & SCHELL, P.C.

By:



Dated: July 13, 2018

JOHN W. CROUMER
I.D. # 208170
Attorneys for Defendant

CERTIFICATE OF SERVICE

I, John W. Croumer, Esquire, do hereby certify that on the date set forth below, I did serve a true and correct copy of the foregoing document upon the following person(s) at the following address(es) by first class mail, postage paid:

Benjamin Schweers, Esquire
Godberg, Persky & White, PC
11 Stanwix St.
Pittsburgh, PA 15222

POST & SCHELL, P.C.

By:



Dated: July 13, 2018

John W. Croumer, Esquire
Attorneys for Defendant